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UNCLAS SECTION 01 OF 02 ISTANBUL 000380

SIPDIS

E.O. 12958: N/A

TAGS: [PGOV](#) [PREL](#) [TU](#)

SUBJECT: ERGENEKON INDICTMENT FINALLY FILED WITH COURT

REF: A. ANKARA 1217

[B](#). ANKARA 1194

[C](#). ANKARA 1170

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[1](#). Summary. Istanbul Chief Prosecutor Aykut Cengiz Engin announced today that his office has submitted the so-called "Ergenekon Indictment" to Istanbul Heavy Penal Court No. 13. He said 86 suspects have been charged, 48 of whom are currently in custody. Engin also announced that 36 of the people who were detained and released during the investigation will not be prosecuted. Although the court has 15 days in which to decide whether to accept the indictment as legally sufficient, observers are certain that the court will do so. End Summary.

Wide-Ranging Crimes Alleged

[2](#). The suspects are charged with violating the Constitution (Turkish Penal Code 309/1); acquiring information on state security (TPC 327/1); recording personal information (TPC 135/1); provoking the public to hatred and animosity (TPC 216/1); qualified damage to property (152/2a); possessing explosive material (174/3); armed revolt against the GOT (TPC 313/1); prevention of the exercise of political rights (TPC 114/2); establishing an organization for committing a crime (TPC 220/1-8); and provoking military disobedience (Military Penal Code 319/1). Among the predicate acts contained in the indictment, according to Engin, are the murder of a Danistay (high court) judge in 2006 and the recent bombing outside the Istanbul headquarters of Cumhuriyet, the leading secular-Kemalist newspaper (Ref B). The prosecution is demanding sentences of 27 to 61 years.

[3](#). Although Engin did not claim that the defendants have been charged with any terrorism-related crimes, he did say that the indictment accused them of being members of a terrorist organization. Engin explained that the term "terrorist organization" should be read in the context of Article 1 of Anti-Terror Law no. 3713 ("Terrorism is any kind of act done by one or more persons belonging to an organization with the aim of changing the characteristics of the Republic as specified in the Constitution, its political, legal, social, secular and economic system, damaging the indivisible unity of the State ..."). While this accusation undoubtedly is intended to advance some strategic trial goal,

its relevance to the case is not yet clear.

¶4. The court has 15 days in which to accept the indictment. The indictment will remain under seal until it has been accepted. While it is theoretically possible that the court will reject the indictment as insufficient, the court is generally expected to accept the case.

Further Charges to Follow?

¶5. The prosecutor also said that issues related to the Ornek "coup diaries" (Ref C) are not included in the indictment. Sources indicate that this implies that the former First Army Commander Hursit Tolon and Former Jandarma Commander Sener Eruygur, Ataturk Thought Association Chairman Sinan Aygun, and others of those arrested after the July 1 operations, are not named in this indictment. It is rumored that there will be a "supplementary indictment" for them.

Reactions

¶6. Reacting to previously published criticism that the indictment was filed with a months-long delay after the first suspects were jailed, Engin noted that the indictment comprises 2455 pages, charges scores of people, and follows an extensive investigation that included the examination of hundreds of thousands of pages of documents (a more modest estimate than the six million page claim noted in Ref A.)

¶7. Reactions from the media and political figures were, not unexpectedly, mixed. Mustafa Karaalioglu, editor-in-chief of

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the pro-government Star newspaper, said in an interview with NTV that the indictment showed how serious the "Ergenekon" threat had been. "Obviously, this is an unprecedented case, so it's important and special." Meanwhile main stream, anti-government Vatan editor in chief Rusen Cakir claimed the indictment when unsealed would not meet expectations. "The bar was set too high by the press prior to the indictment." Cakir also said that he would look to see whether incumbent military officers were included in the indictment.

¶8. Ozdemir Ozok, President of the Turkish Bar Association, criticized the prosecutor for not acting "within legal limits" and for making an announcement before the indictment has been accepted by the court. He also said the prosecutor's statements raised doubts about how confident he felt about the indictment. "It is very wrong that he tried to bring a new definition to terror. Terror is terror, and his attempt shows that he is not convinced," he said.

¶9. AKP Parliamentary Group Vice Chairman Bekir Bozdogan denied allegations the AKP government was involved in the investigation process. "This is an investigation that the prosecutors are carrying out independently." CHP Parliamentary Group Vice Chairman Hakki Suha Okay criticized the indictment's alleged link to the Danistay killing. "There's already a case going on in Ankara on the Danistay incident. If they had evidence of a link, why didn't they give this to the court in Ankara?" CHP Vice Chair Mustafa Ozyurek sarcastically observed, "The mountain gave birth to a mouse."
WIENER